

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop and Adopt Fire-Threat Maps and Fire-Safety Regulations	Rulemaking 15-05-006 (Filed May 7, 2015)
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DECISION GRANTING COMPENSATION TO MUSSEY GRADE ROAD ALLIANCE FOR SUBSTANTIAL CONTRIBUTION TO DECISION 16-05-036

Intervenor: Mussey Grade Road Alliance (MGRA)	For contribution to Decision (D.) 16-05-036
Claimed: \$16,625.45¹	Awarded: \$16,625.45
Assigned Commissioner: Michel Peter Florio	Assigned ALJ: Timothy Kenney

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	Decision accepting Fire Map 1
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference (PHC):	6/22/2016	Verified
2. Other specified date for NOI:		
3. Date NOI filed:	7/11/2016	Verified
4. Was the NOI timely filed?		
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.13-11-006	Verified
6. Date of ALJ ruling:	7/24/2014	July 21, 2014

¹ MGRA's original Request listed the total amount claimed at \$14,841.00. However, there are a few mathematical errors in MGRA's computation of time spent on Decision 16-06-036. These mathematical errors have been corrected and are reflected throughout today's decision.

7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.13-11-006	Verified
10. Date of ALJ ruling:	7/24/2014	July 21, 2014
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.16-05-036	Verified
14. Date of issuance of Final Order or Decision:	5/26/2016	May 27, 2016
15. File date of compensation request:	7/21/2016	Verified
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Intervenor's Comment(s)	CPUC Discussion
1	According to the 7/7/2016 email from the Intervenor Compensation Coordinator's Office, findings of customer-related status and significant financial hardship are valid for all proceedings commencing within one year of the ruling making the finding of said status.	Public Utilities Code § 1804(b)(1) provides that a finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other Commission proceedings commencing within one year of the date of that finding. MGRA received a finding of significant financial hardship on July 21, 2014 via an Administrative Law Judge Ruling in Rulemaking (R.) 13-11-006. The present Rulemaking, R.15-05-006, commenced May 7, 2015, within one year of the July 21, 2014 Ruling. We extend the finding made in the July 21, 2014 Ruling to the present Rulemaking.
		Public Utilities Code § 1804(a)(1) provides that in cases where the schedule would not reasonably allow parties to identify issues within the timeframe set forth, or where new issues emerge subsequent to the time set for filing, the Commission may determine an appropriate procedure for accepting new or revised notices of intent. Here, MGRA timely filed its Notice of Intent (NOI) within 30 days of the June 22, 2016 Prehearing

		<p>Conference (PHC). However, the PHC was held subsequent to the issuance of Decision (D.) 16-05-036, the decision which MGRA seeks contribution for. This unique situation should not bar MGRA from requesting compensation.</p> <p>MGRA's NOI appropriately demonstrated the two-prongs of Intervenor Compensation eligibility: (1) customer status and (2) a showing of significant financial hardship. In addition, MGRA has been an active participant in the instant proceeding, as well as the prior Rulemaking (R.) 08-11-005. Moreover, the preliminary schedule² set by the assigned Administrative Law Judge and assigned Commissioner required work to be completed on Fire Map 1 before the holding of a PHC in R.15-05-006.</p> <p>Taking R.15-05-006's procedural schedule into account, as well as MGRA's timely filed NOI, we find MGRA has met the requisite statutory requirements to be eligible for an award of Intervenor Compensation.</p>
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PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision (*see* § 1802(i), § 1803(a), and D.98-04-059).

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>Note: For definition of contribution types, see Comment 2 in Section C. For definition of issue, see Comment 1 in Section C. For reference abbreviations, see Comment 3 in Section C</p>		
2. Continued to advocate for inclusion of wind as a driver	MGRA-DMAP-Cmt, p. 5 – "The goal of the current proceeding is to create a fire threat map that can be used to develop	Verified.

² See Ordering Instituting Rulemaking to Develop and Adopt Fire-Threat Maps and Fire-Safety Regulations at Appendix A.

<p>for ignitions that needs to be explicitly included in Fire Map 1. IET initially included this as a threshold effect in its Option 1, and also offered an Option 2 with no wind ignition driver. MGRA argued in comments and during the workshop for a stronger wind effect. MGRA supported the compromise put forward by Reax that made the ignition threshold proportional to wind force.</p> <p>Type: Initiator Issue: Eng</p>	<p><i>engineering standards</i> appropriate for high fire risk areas... Adopting a model that explicitly includes a wind component is necessary to achieve the goals set forth in this proceeding.”</p> <p>Decision, p. 7 – “Next, the IET developed the Ignition Potential Index (IPI) to estimate the likelihood of utility-related fires during severe fire-weather conditions. The IPI uses (1) wind force as a proxy for the likelihood that overhead utility facilities might produce a spark that could ignite a fire...”</p>	
<p>3. MGRA suggested that a map that specifically addresses fire hazards due to tree-line contact should be developed for areas such as Northern California in which wind may not be a driver.</p> <p>Type: Primary Issue: Veg</p>	<p>MGRA-DMAP-Cmt, p. 5 – “Fire risk is not isolated to Southern California. The recent Butte fire burned almost 500 homes and scorched 70,000 acres, and was possibly caused by a tree limb falling onto a PG&E power line... Should the Commission also want to address vegetation risk, a map derived from Model 1 – in conjunction with selection for vegetation type with high canopies – could form the basis for such a map. This could potentially be an additional output from this proceeding, but should not be conflated with the agnostic map intended for input into developing engineering requirements for the regulatory (Map 2) process.”</p> <p>Decision, p. 26: “We agree with MGRA that the development of Fire Map 2 should address the fire hazards associated with the Butte Fire. As stated in the proposed decision, it is our intent that the development of Fire Map 2 should address not only the October 2007 fires in Southern California, but other historical fires, too.”</p>	Verified.
<p>3. MGRA analyzed the IET Fire Map 1 and alerted the IET</p>	<p>MGRA-DMAP-Cmt, p. 7 – “It can be clearly seen in the map above that the</p>	Verified.

<p>and parties that areas of Southern California that had been subject to the 2003 and 2007 wildfires had index scores that underrepresented the actual fire risk due. This turned out to be due to a flawed vegetation regrowth model, and was corrected by the IET. This also raised the issue of map refreshment cycle.</p> <p>Type: Primary Issue: Veg</p>	<p>calculated fire threat is considerably lower where major fires have already burned... This raises a concern regarding the present and future accuracy of these maps in their current form. The vegetation type in much of San Diego County is chaparral, which is fast growing, fire-resilient, and can propagate high-intensity fast-moving fires.”</p> <p>SED-Wkp-Rpt, p. 6 – “To reach consensus on the appropriate surface fuel data for Fire Map 1, the IET recommended and created rules to utilize recently developed statewide vegetation dataset to replace areas of known inconsistencies or mis-categorization of surface fuels in both datasets.”</p>	
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B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor's Assertion	CPUC Discussion
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?	No	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified
c. If so, provide name of other parties: SED		Verified
d. Intervenor's claim of non-duplication: MGRA was supportive of SED and Cal Fire's (not a party) efforts in the creation of Fire Map 1. MGRA was the only non-governmental party representing the interests of California residents of rural fire-prone areas. MGRA concentrated on the importance of wind to fire ignition, and supported map options that specifically included a wind ignition component. MGRA also raised the vegetation management issues associated with the Butte Fire.		Verified

C. Additional Comments on Part II:

#	Intervenor's Comment		CPUC Discussion
1	Contribution Types	There are various types and levels of contribution that the Alliance interventions provided. These are defined and explained below.	
	Primary	A Primary contribution is one in which the Alliance made a unique and definitive difference in supplying information not supplied by any other party. The Alliance can show that "but for" its intervention, the Decision would have likely reached a different conclusion.	
	Initiator	In instances where the Alliance was an "Initiator", it was the first to bring a particular issue or analysis to the Commission's attention. Other parties subsequently made additions or improvements that were accepted by the Commission.	
	Contributor	While not initiating an analysis or study, the Alliance made a significant contribution to it. Also, in decisions or conclusions which take into account many different factors, the Alliance's results contribute one or more of these factors.	
	Improvement	The Alliance commented on an existing process or measure and its suggestion was adopted in the final decision.	
	Complimentary	The Alliance chose a different method or analysis than that used in the Final Decision, but which is consistent with it and supports the same results.	
	Alternative	The Alliance reached a conclusion or presented an analysis at variance with the Decision or with the Final EIR/EIS, but which raised important points.	
2	Abbreviations for issues that MGRA was involved in: Map: Procedural and general issues related to the process of map creation. Eng: Engineering requirements for the map – specifically the requirement that an ignition component be incorporated. Veg: Vegetation issues, including tree canopy (Butte Fire) and chaparral issues Southern California.		
3	Abbreviation	Document	
	MGRA-DMAP-Cmt	MUSSEY GRADE ROAD ALLIANCE COMMENTS ON THE DRAFT MAP AND DEVELOPMENT REPORT	
	MGRA-DMAP-Rpl	MUSSEY GRADE ROAD ALLIANCE REPLY COMMENTS TO PARTY COMMENTS ON THE DRAFT MAP AND DEVELOPMENT REPORT AND ALTERNATIVE MAPS	

	MGRA-WKP-Rpl	MUSSEY GRADE ROAD ALLIANCE REPLY TO PARTY COMMENTS ON THE MAP 1 WORKSHOP REPORT	
	MGRA-PD-Cmt	MUSSEY GRADE ROAD ALLIANCE COMMENTS ON THE PROPOSED DECISION ADOPTING FIRE MAP 1	
	SED-Wkp-Rpt	THE SAFETY AND ENFORCEMENT DIVISION WORKSHOP REPORT FOR WORKSHOPS HELD NOVEMBER 12 AND 13, 2015 ON BEHALF OF CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION/INDEPENDENT EXPERT TEAM AND JOINT PARTIES	

PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§ 1801 and § 1806):

a. Intervenor's claim of cost reasonableness:	CPUC Discussion
<p>MGRA has the initial proponent of utility-specific fire maps, and believes that the creation of these maps will lead to greater and more uniform safety across the state of California. Our goals had already been primarily met in previous proceedings by the declaration that there would be a “science-based” Map 1 and the funding of an Independent Expert Team led by Cal Fire to produce it. Therefore, MGRA participation in this proceeding was relatively light compared to its predecessor proceedings, leading to reduced intervention costs.</p> <p>On the issues where we did intervene, we believe we substantially enhanced public safety at a minimal cost to the Commission and ratepayers. Helping to drive to a consensus for a wind-ignition component we believe is the core value of Map 1 that differentiates it from any other fire risk map by identifying areas where power line fires are prone to start under fire weather conditions. Preventing even one scenario such as the 2007 fire storm, with its total costs of several billion dollars, would greatly benefit residents and ratepayers.</p> <p>On the issue of the Butte fire and vegetation fires, MGRA recognized that other ignition mechanisms might be at play, and that the Commission might want to expand the scope of Fire Map 2 to include high-canopy vegetation fires as an alternate map or layer. The Butte fire damages may approach \$1 billion, so prevention of even one similar fire would be of great benefit to ratepayers and residents and would far exceed cost of MGRA participation.</p> <p>Finally, on the issue of vegetation in Southern California, MGRA detected a problem in Fire Map 1's vegetation model, which severely underestimated fire risk in areas that had recently burned. Had this gone undetected, it might have directed utility fire prevention resources away from many areas that should instead have greater priority for enhanced safety regulation and resourcing. Once again, the benefits of preventing even one fire in these areas greatly exceeds the cost of MGRA participation.</p>	<p>Verified.</p>

<p>b. Reasonableness of hours claimed:</p> <p>The majority of the MGRA input was technical, and was prepared by MGRA expert witness Dr. Mitchell. Dr. Mitchell donated 5 hours of analysis time for which no compensation is sought.</p> <p>Ms. Conklin has donated time to this proceeding and makes no claim for intervenor compensation at this time.</p> <p>Because of our alignment with IET and SED, it was only necessary for MGRA to intervene on very specific issues, which minimized this compensation claim.</p>	<p>Verified; MGRA claimed hours are reasonable.</p>
<p>c. Allocation of hours by issue:</p> <p>Expert hours Maps: 22.5 Eng: 10.6 Veg: 7.7</p>	

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
J. Mitchell	2015	35.8	\$285	D.15-07-030	\$10,203.00	35.8	\$285	\$10,203.00
J. Mitchell	2016 ³	10.9	\$290	Resolution ALJ-303	\$3,161.00	10.9	\$290 ⁴	\$3,161.00
Subtotal: \$13,364.00						Subtotal: \$13,364.00		
OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
J. Mitchell	2015	8	\$142.50	D.15-07-030	\$1,140.00	8	\$142.50	\$1,140.00
Subtotal: \$1,140.00						Subtotal: \$1,140.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
J. Mitchell	2016	8	\$145	½ Rate of 2016 hourly rate	\$1,160.00	8	\$145.00	\$1,160.00
Subtotal: \$1,160.00						Subtotal: \$1,160.00		

³ We have edited this portion, and have separated J. Mitchell's time by year here. MGRA MUST separate the time claimed in this section by person and by year in all future claims.

⁴ Application of the 1.28% cost-of-living-adjustment (COLA) per Resolution ALJ-329.

COSTS				
#	Item	Detail	Amount	Amount
1	Workshop Travel	See attached claim with itemized expenses and receipts: R.15-05-006 Expenses_IC.pdf (xls)	\$961.45	\$961.45
TOTAL REQUEST: \$16,625.45				TOTAL AWARD: \$16,625.45
<p>**We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate.</p>				

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
3	Diane Conklin participated in this proceeding but declines to request intervenor compensation for this portion of it. MGRA wishes to preserve all rights for Diane Conklin to request intervenor compensation in this and all future proceedings in which she makes substantive contribution, and to be eligible for previously established intervenor compensation rates which have been approved by the Commission for her, including applicable adjustments.

D. CPUC Disallowances and Adjustments:

Item	Reason
Routine travel.	The Commission considers travel time and costs incurred by attorneys, consultants and other experts participating Commission proceedings to be non-compensable "routine travel" when the one-way travel distance is 120 miles or less. ⁵ Here, however, J. Mitchell has traveled from Romona, California to San Francisco which is more than 500 miles one-way. As such, we compensate J. Mitchell at ½ his hourly rate for his travel time, and award the costs associated with traveling to San Francisco.
Adjustment to award amount.	MGRA's original request listed the total amount claimed at \$14,841.00. However, there are a few mathematical errors in MGRA's computation of time spent on Decision 16-06-036. These mathematical errors have been corrected and are reflected in today's Decision.

⁵ See Decision (D.) 10-11-032 at 19.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No.
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?	Yes.

FINDINGS OF FACT

1. MGRA has made a substantial contribution to Decision 16-05-036.
2. The requested hourly rates for MGRA's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$16,625.45.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. Mussey Grade Road Alliance shall be awarded \$16,625.45.
2. Within 30 days of the effective date of this decision, the Commission's Fiscal Office shall disburse the awarded compensation from the Commission's Intervenor Compensation Fund. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning October 4, 2016, the 75th day after the filing of Mussey Grade Road Alliance's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1605036		
Proceeding(s):	R1505006		
Author:	ALJ Kenney		
Payer(s):	Intervenor Compensation Fund		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Mussey Grade Road Alliance	7/21/2016	\$16,625.45	\$16,625.45	N/A	N/A

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Joseph	Mitchell	Expert	MGRA	\$285	2015	\$285
Joseph	Mitchell	Expert	MGRA	\$290	2016	\$290

(END OF APPENDIX)